Embodied, Affective and Relational Selves and Anorexia Nervosa (AN)

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Abstract

Within her book, *Law's Relations*, Jennifer Nedelsky argued that an optimal conception of human selves would integrate understandings of human beings as embodied, affective and relational. I assess the extent to which these aspects of human selves have been sufficiently captured within relevant laws (in particular, relevant case law) and academic literature, within the jurisdiction of England and Wales, pertaining to patients with the eating disorder anorexia nervosa (AN). I argue that, although relational factors may help to explain the decisions in some cases, decided by the Court of Protection, not to continue to forcibly treat patients with longstanding and severe eating disorders (LSEDs) against their will, such decisions, and related academic commentary, do not sufficiently take into consideration the broader social relations relevant to the aetiology of eating disorders, in addition to the embodied and affective aspects of those patients suffering with the disease, which may lead to unjustifiable decisions concerning capacity, autonomy and futility.

Keywords: embodied; affective; relational; anorexia nervosa; capacity; futility.

[A] INTRODUCTION

Jennifer Nedelsky (2012) contended that the manner in which human agents are conceived within legal and political theory is inappropriately narrow and that an optimal conception of human selves would integrate understandings of human beings as embodied, affective (relating to moods, feelings and emotions) and relational. I adopt a novel approach, within this article, by using Nedelsky's framework, supplemented with concepts

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from Alasdair MacIntyre's neo-Aristotelian philosophy, to critique the narrow conceptualizations of patients with anorexia nervosa (AN) within relevant laws (particularly relevant case law), within the jurisdiction of England and Wales, and related academic literature. I argue that narrow conceptualizations of AN patients with longstanding and severe eating disorders (LSEDs) may lead to unjustifiable assessments of capacity, autonomy and futility. I contend that a careful consideration of the embodied, affective and relational aspects of human selves, within relevant cases, may lead to more justifiable decisions. I note that the affective and embodied aspects of AN patients have been considered, to some extent, within relevant case law and related academic literature. I contend that an enhanced comprehension of the affective and embodied aspects of human selves may illuminate why eating disorders develop and persist and may lead to better treatments. I note that relational factors have also been considered, within relevant case law and associated academic commentary, and help to explain the decisions, in some cases, to cease forced treatment.

However, I argue that broader social relations have been overlooked. In this context: thinness is culturally valorized; eating disorder patients face delays and stigma in accessing services; healthcare professionals lack awareness and training; resources are insufficient and rationed; and research into, and prevention of, eating disorders is inadequate. I contend that such contextual factors are relevant for determinations as to whether continued forced treatment of some patients with LSEDs is justified. I contend that failure to sufficiently comprehend the embodied, affective and relational aspects of AN patients may result in the reification (turning complex phenomena into static things) of such patients, as they may erroneously be regarded as untreatable. Medical practice is also reified where developing treatments are overlooked and AN itself is reified when regarded as a purely metabolic condition (thereby omitting patients' subjective experiences). Nonetheless, I contend that some decisions to cease forced treatment may be justified, if continued treatment is deemed to be inappropriate or non-beneficial, where the embodied, affective and relational aspects of human selves have been appropriately considered. In making this determination, attempted treatments and potential complications are relevant considerations.

[B] EMBODIED, AFFECTIVE AND RELATIONAL SELVES

Nedelsky critiqued "the prevailing stripped-down image of the 'rational agent' of both law and political theory" as "unnecessarily and destructively narrow" (2012: 159). Nedelsky also contended that a fully human self is "embodied, affective, and relational" and that "an optimal conception of human selves would integrate all three" (ibid: 33). In advancing her arguments, Nedelsky drew on previous literature regarding such aspects of human selves, including the work of feminist scholars and the work of MacIntyre. I utilize Nedelsky's framework, supplemented with concepts from MacIntyre's work, within this article. Nedelsky's work provides the framework for constructing an alternative to the image of the rational agent within legal and political theory. I contend that concepts from MacIntyre's neo-Aristotelian philosophy provide the ontological and ethical depth for fleshing out this alternative.

In his writings pertaining to medical ethics in the 1970s and 1980s, MacIntyre lamented that the predominance of secular liberal pluralism "leaves us resourceless in the face of moral problems" (1975: 17). The limits of liberal individualistic approaches within bioethics have been noted in recent academic literature pertaining to AN (Radden 2021; Tarasenko-Struc 2026). MacIntyre (1978) identified two conditions, namely a long-term relationship and similar moral views, for medical professionals to be the friends of patients, which are often not achieved in contemporary medical practice. In relation to similar moral views, MacIntyre was critical of contemporary emotivist culture whereby morality is reduced to "personal preference" (2007: 23). MacIntyre developed his alternative neo-Aristotelian philosophy within his magnum opus *After Virtue*. This was first published in 1981 and the third edition was published in 2007.

MacIntyre (2007) outlined a social teleology within *After Virtue* in which he characterized virtues as dispositions to achieve the goods internal to practices (for example, the health of patients is an internal good of medicine); contended that narratives provide unity to the different practices that people engage in; and argued that the pursuit of the good is informed by ongoing social traditions. MacIntyre's (1999) subsequent book, *Dependent Rational Animals*, represented a biological and naturalistic turn within his work, as he emphasized the ethical relevance of human vulnerability, affliction and dependence (Ramis Barcelo 2012). MacIntyre's contentions regarding friendship (MacIntyre 1978), relational autonomy (MacIntyre 1979), embodiment (MacIntyre 1999), the narrative unity of human lives (MacIntyre 2007) and rank ordering of goods (MacIntyre 2016) inform my

analysis of the three aspects of human selves identified by Nedelsky and, in turn, inform my analysis of legal determinations of capacity, autonomy and futility. Ultimately, MacIntyre's work demonstrates that, in order to be justifiable, decisions about capacity, autonomy and futility must engage with the substantive aspects of human experience conveyed by Nedelsky's tripartite framework.

[C] ANOREXIA NERVOSA

AN is a mental illness which often commences in a sufferer's adolescence (World Health Organization (WHO) 2024). The WHO states that AN "is a disorder characterized by deliberate weight loss, induced and/or sustained by the patient" (1992: 176). Although "the disorder occurs most commonly in adolescent girls and young women", it also affects "adolescent boys and young men" (ibid: 176). An individual will be diagnosed with AN if they maintain a weight substantially below their expected body weight; self-induce weight loss by avoiding foods and engaging in behaviours, such as excessive exercise; and, are excessively preoccupied with body weight or shape (WHO 2024). AN has a high relapse rate (Khalsa & Ors 2017) and many AN patients have comorbidities (which was the case for most of the patients who were the subject of the litigation considered below), such as mood disorders, anxiety disorders and personality disorders (Bühren & Ors 2013).

Medications and psychotherapies have had limited success in treating AN (Higgins 2018). AN is an egosyntonic disorder, as individuals often value their disorder, which can hinder their motivation to recover (Waller & Ors 2007). Nonetheless, recovery is possible even for patients with LSEDs (Rigaud & Ors 2012). AN also impacts the families and friends of sufferers (Woolf 2012). MacIntyre (2009) stressed the importance of interdisciplinary research. There are two dominant paradigms in theories regarding eating disorder aetiology—the biopsychiatric approach (which emphasizes genetic factors and brain functioning) and the socio-cultural model (which focuses on cultural themes and practices)—but many scholars adopt a multidimensional approach (Smolak & Levine 2015), which I utilize within this article.

Within the jurisdiction of England and Wales, AN patients may be compulsorily hospitalized (section 2) and treated (section 3) under the Mental Health Act (MHA) 1983 and their consent is not required for treatment of their mental disorder (section 63). In *South West Hertfordshire HA v KB* (1994), it was held that nasogastric feeding is medicine and an integral part of the treatment for AN. As Beverley Clough (2016) notes,

the purpose of re-feeding a patient with AN is to keep them alive while talking therapies, such as psychotherapy, are facilitated to try to treat the underlying AN. In many cases, it may not be clear that the burdens of compulsory treatment are justifiable and clinicians may desire to include patients in decision-making to make treatments viable. Consequently, clinicians may rely on the Mental Capacity Act (MCA) 2005 which stipulates that adult patients who lack capacity must be treated in their best interests (section 1(5) (see also the Children Act 1989 section 1(1) for children).

The MCA 2005 test for capacity contains diagnostic and functional (procedural) elements. The diagnostic element is that a person's lack of capacity must be due to "an impairment of, or a disturbance in the functioning of, the mind or brain" (MCA 2005, section 2(1)). The functional element is that a person is deemed unable to make a decision for themselves if they are: unable to understand the information relevant to the decision; retain that information; use or weigh that information as part of the process of making the decision; or communicate their decision (MCA 2005, section 3(1) (a)-(d)). The compulsion of AN patients not to eat has been regarded as depriving them of the ability to weigh information as part of decision-making processes (Law Commission 1995). The United Kingdom (UK) Supreme Court clarified, in *A Local Authority v JB* (2021), that consideration of the functional test should precede consideration of the diagnostic test and that a functional inability to make a decision must be causally linked to the impairment of the mind or brain. I contend that focusing on the aspects of human selves identified by Nedelsky is crucial for ensuring that those making decisions about capacity capture the full reality of human selves with AN, rather than the narrow agent that predominates within legal and political theory which may lead to unjustifiable decisions. I assess the functional test (and reform options) further below.

The Court of Protection has decided not to permit the continued forced treatment of AN patients in several cases, within the jurisdiction of England and Wales. I provide an overview of relevant cases before analysing the decisions, utilizing Nedelsky's framework of human selves and identifying patterns in relation to determinations of futility, autonomy and capacity. I focus on written judgments to reveal how LSED patients have been characterized, but recognize that such judgments may not fully reflect the expert testimony provided or the full extent of judicial engagement with pertinent issues. I also acknowledge that judges are constrained by both the adjudicative process, as they are often reliant on the evidence provided, and the individualistic focus of the MCA 2005,

which constrains the broader focus that I advocate. In the first pertinent case (of the series of cases that I analyse), *A Local Authority v E* (2012), it was decided that force feeding was in the best interests of a 32-year-old anorexic woman. The patient in that case was deemed to lack capacity and two advance decisions they had made were overturned on a retrospective determination of incapacity. However, subsequent decisions indicate a shift towards centring the wishes and feelings, and beliefs and values, of patients (Stickler 2023).

The continuation of forced treatment was not deemed to be in the best interests of adult AN patients in the following cases, which demonstrate the greater weight being given to the wishes and feelings of patients: *NHS Trust v L* (2012); *A NHS Foundation Trust v X* (2014); *Cheshire and Wirral v Z* (2016); *Re W (Medical Treatment: Anorexia)* (2016); *Northamptonshire Healthcare NHS FT v AB* (2020); *A Mental Health Trust v ER* (2021); *A Midlands NHS Trust v RD (via her Litigation Friend, the Official Solicitor), SD, LD, A Midlands Clinical Commissioning Group* (2021); *A Mental Health NHS Trust v BG (2022); Gloucestershire Health & Care NHS Foundation Trust v FD & Ors* (2023); *In the Matter of Patricia* (2023); *North East London NHS Foundation Trust v Beatrice* (2023); and *Leeds and York Partnership NHS Foundation Trust v FF & Anor* (2025). Similarly, in *Lancashire and South Cumbria NHS Foundation Trust v Q* (2022) forced treatment was not deemed to be in the best interests of a 50-year old woman suffering with bulimia nervosa (BN). In the *Patricia* case, the 2023 orders were subsequently lifted in 2025 (see *Patricia's Father and Ors v Patricia & Ors* 2025) to enable Patricia to be treated at a specialist eating disorder unit.

By contrast, in *St George's University Hospitals Foundation Trust & Anor v LV (Rev1)* (2025), it was deemed to be in the best interests of a 20-year-old woman to be fed under sedation in an intensive care unit. In two cases involving 17-year-old children with AN, namely *London Borough of Southwark v NP & Ors* (2019) and *Pennine Care NHS Foundation Trust v Mrs T* (2022), continued treatment was deemed to be in their best interests. In *Barnet, Enfield and Haringey Mental Health v CC & Ors* (2024) it was determined that esketamine may be approved as a treatment, if the 21-year-old AN patient's health improved. The drug was subsequently approved within an unpublished judgment (Cave & Tan 2025).

In his second judgment in the *Beatrice* case, Mostyn J set out five factors for consideration in determining whether compulsory treatment would continue (2023: paragraphs 2-9). The first factor is the presumption in favour of the prolongation of life (derived from Article 2 of the European Convention on Human Rights 1950). The second factor is the wishes

and feelings of the patient (as per the MCA 2005 section 4(6)). The third factor is the view of members of the patient's family. The MCA 2005 (section 4(7)(a)) states that:

> the decision maker must take into account, if it is practicable and appropriate to consult them, the views of anyone engaged in caring for the person or interested in her welfare.

The fourth factor is the overall prognosis of the patient. The fifth factor is the views of treating clinicians regarding the best interests of the patient. The third and fifth factors enable those in personal and professional relationships with patients to contribute to determining their best interests. I have outlined the relevant cases and the pertinent factors considered within them. I assess the extent to which the decisions within those cases capture the embodied, affective and relational dimensions of AN patient's selves in the following section.

[D] EMBODIED, AFFECTIVE AND RELATIONAL SELVES IN AN PATIENT CASES

With regards to the affective aspects of human selves, judges articulated the distressing aspects of the aforementioned cases. For example, Lieven J described the *ER* case as a "sad case", as it involved a 49-year-old woman who had suffered with AN since she was a teenager (2021: paragraph 3). Similarly, in the *Patricia* case, which involved a 24-year-old woman who had suffered with AN for many years, Moor J, in his second judgment, stated that "this is one of the most tragic and sad cases that I have had to deal with on the High Court Bench" (2023: paragraph 1). The distressing aspects of such cases are best comprehended if one recognizes, as MacIntyre argued, that ethics requires a consideration of man-as-he-happens-to-be and "man-as-he-could-be-if-he-realized-his-telos" (2007: 65). According to Aristotle (2009), the telos of beings (including human beings) is to achieve flourishing. MacIntyre argued that the standard for determining whether something is good or bad for humans is not personal preference (as emotivists contend) but whether it will "contribute to or frustrate our human flourishing" (2016: 25). The cases concerned patients as they happened to be, individuals suffering from AN, who could have led flourishing lives, for example, by developing relationships (considered further below) and pursuing other goals (for example, pertaining to education and careers) if they had not suffered with AN. MacIntyre contended that a person's identity is formed by a narrative about their life and that, in progressing toward their final end, people become increasingly self-aware and "better able to understand

what in their past has gone well and what has gone badly" (ibid: 54). Nevertheless, MacIntyre noted that "we are never more (and sometimes less) than the co-authors of our own narratives" (2007: 247-248). It has been argued that narratives that there is no hope for some AN patients neglect their particularities, may reify them as untreatable and may be problematically incorporated into their self-conceptions (Downs 2024a).

The difficulties that some AN patients had in dealing with emotions was considered within some of the judgments. For example, in the *X* case, Cobb J noted that Dr Tyrone Glover (who provided an independent opinion in that case and in many other cases) had opined that "starvation numbs her [the patient's] emotions, and re-feeding arouses them" (2014: paragraph 19). The emotional impact of compulsory treatment is also relevant. It has been noted that negative emotions, such as anger, confusion, distress, fear, resentment and defensiveness are common (Touyz & Ors 2024). The impact of forced treatment on the patient's emotions was considered within some of the cases. For example, in the *Z* case, Hayden J noted that one medical professional opined that "Z at least fares better emotionally when she is not subjected to an enforced medical regime" (2014: paragraph 11). The powerful affective components of AN have also been mentioned within some relevant academic literature. For example, it has been noted that such affective components impact not only agency but also beliefs (Hope & Ors 2013).

It has been queried whether ethics has kept pace with insights into AN within neuroscience (Charland 2013; Geppert 2015). MacIntyre (2016) averred that we should consider neuroscientific insights into interference with the normal functioning of the brain and the resultant impact on desires and emotions. I contend that relevant neuroscientific literature concerning emotional dysregulation, which is relevant for determinations of capacity, could have been explored more thoroughly within relevant judgments and associated academic commentary. There is a growing body of evidence suggesting abnormalities in emotional processing in those with AN (Madden 2015). A meta-analysis indicates significantly altered performance in relation to the Iowa Gambling Task (which measures risk-taking) for those with eating disorders, which is indicative of impaired decision making (Guillame & Ors 2015).

It has been suggested that AN arises due to a lost emotional self (Oldershaw & Ors 2019). Annemarie van Elburg and colleagues (2021) contend that eating disorder-related behaviours are used as coping strategies to reduce, distract from, or even numb emotional experiences. They note that the relationship between maladaptive decision-making,

disturbed emotion processing and mental capacity have not been thoroughly studied within clinical research (van Elburg & Ors 2021). An important component in treatment may be to improve hampered emotional functioning, which is a feature central to some recently developed treatments (Elzakkers & Ors 2017). The relationship between emotion processing and mental capacity is a vital consideration for judges assessing the capacity of AN patients and whether attempted treatments have sought to improve emotion processing is a relevant issue for determining whether continued treatment may be inappropriate or non-beneficial.

In relation to the second aspect of human selves identified by Nedelsky, the embodied aspect, MacIntyre was critical of theories which are "forgetful of our bodies" (1999: 5). O Carter Snead (2020) argues that this theoretical problem pervades contemporary bioethics within the United States, in which the principle of autonomy is valorized. I contend that the embodied aspect of human selves is important in comprehending the impact of LSEDs on sufferers and the intractable nature of eating disorders. This aspect of human selves was briefly considered within the aforementioned cases. For example, the debilitating effects of AN were mentioned within some judgments (see, for example, *E* 2012: paragraph 23; *AB* 2020: paragraph 1). In his first judgment in the *Beatrice* case, Mostyn J compared the calorific intake of the patient with the calorific intakes of volunteers in the Minnesota Starvation Experiment (MSE) (2023: paragraphs 13-14). It is unfortunate that this was only considered in passing, as it, along with other relevant scientific literature, provides insights into the intractable nature of AN.

The MSE was a 12-month clinical study which took place between 1944 and 1945 and involved 36 American male volunteers, who were conscientious objectors to military service during the Second World War, agreeing to cut in half their daily intake of food (for the six-month semi-starvation period of the study) (Keys & Ors 1950a; 1950b). The experiment revealed the morphological, biochemical, physiological and psychological impacts of starvation. The degree of normality of subject participants was assessed using the Minnesota Multiphasic Personality Inventory (McKinley & Hathaway 1944; Keys & Ors 1950b). In the control period of the experiment, average standard scores for nearly all clinical scales were close to normal averages (Keys & Ors 1950b). However, the experiment revealed that food restrictions resulted in changes in the personality of participants, preoccupation with food and emotional instability (ibid). This corresponds with the analyses mentioned above in my discussion of the affective aspect of human selves.

The MSE study had some limitations, such as differences in the characteristics (such as age and sex) of the participants and the majority of AN sufferers (Sarro 2018). Nonetheless, the insights that the study provides are also evident in more contemporary psychological literature, in which two related models, the habit model and the reward model, have been devised to explain the intractable nature of AN (Walsh 2013; O'Hara & Ors 2015; Evans 2023). The developers of the treatment, Temperament Based Therapy with Support (TBT-S), contend that temperament, "the biological basis of our personality, influenced by genetics, brain circuit development and function over one's life span", may make individuals vulnerable to developing psychological disorders (Hill & Ors 2022: 4). They also contend that their explicit focus on the biological basis of AN has been beneficial for patients, as it "removes unnecessary guilt that their illness is their choice" (ibid: 27). Sociological studies also highlight how the forging of dispositions influences the development of, and recovery from, AN (Darmon 2016). If the embodied aspect of human selves and the insights that can be derived from relevant studies into this aspect (which highlight that it is difficult, but not impossible, for patients to recover from AN) are overlooked, patients with LSEDs may be problematically reified by being regarded as untreatable. The aforementioned scientific, neuroscientific and psychological literature highlights the profound impact of physiological and psychological states on human agency, but I do not endorse a reductive biomedical model. Rather, I argue that such insights must be combined with insights from other disciplines and that AN should not be reified as a fixed biological entity detached from the lived experience of patients.

The third aspect of human selves, identified by Nedelsky, is the relational aspect. Although it has been argued that a relational turn has taken place within academia, some contend that uses of associated concepts, such as relational autonomy, have tended to emulate traditional accounts of autonomy in starting at the point of separated isolated individuals (Bridgeman 2022). This criticism is not applicable to MacIntyre's revisionary conceptualization of autonomy (O'Shea 2012). MacIntyre (1979) contended that autonomy and rationality are social achievements and stated that serious illness may remove individuals "from the network of role relationships and activities which constitute their lives" (ibid: 94). He described serious illness as one of a series of conditions:

> in which people are removed from the network of role relationships and activities which constitute their lives so that they actually become, to some extent, an impoverished shadow of their true everyday self (ibid).

This was evident in accounts of the relationships of AN patients in the aforementioned judgments. For example, in the *E* case, Jackson J noted that "a significant feature of E's personality disorder is associated with difficulties in forming and maintaining relationships" (2012: paragraph 27).

As mentioned above, judges must consider relational factors in adjudicating such cases, including the views of family, friends and treating clinicians. Jennifer Radden contends that the relational model of persons may justify involuntary treatment, as the AN patient's interests and perspectives would no longer be exclusively privileged but would be "recognized as only one among the others comprising her identity" (2021: 148). Similarly, in his consideration of the life of Father Denis Faul (a Northern Irish Roman Catholic priest), MacIntyre noted that, in order to save lives during the 1981 Irish republican hunger strike, Faul controversially persuaded some families of dying hunger strikers to intervene so that they "were fed and brought back to life against their will", ending the strike (2016: 305). MacIntyre noted that Faul believed that several different goods had to be considered and that the good of the families should not be sacrificed to the republican cause (which was the overriding good pursued by the strikers). However, this reasoning could potentially justify other controversial treatment decisions. For example, such reasoning implies that a young former Roman Catholic could have their decision to have an abortion overridden by devout Catholic family members (Tarasenko-Struc 2026).

In many of the aforementioned cases, the patient's relatives were supportive of their wishes for treatment to cease. In contrast, in the *Beatrice* case (as noted in the second judgment, 2023: paragraph 19), the patient's father and brothers wanted her "to have whatever treatment is necessary to preserve her life, including compulsory treatment". This case indicates that relational factors are not always decisive, as the ultimate decision did not accord with the relative's wishes. The strength of views of family and friends was considered within such cases. For example, in the *E* case, Jackson J's decision for treatment to continue was influenced by the fact that those who knew E were sceptical but "not in outright opposition to treatment taking place" (2012: paragraph 139). In many of the cases, there was a consensus among medical professionals to cease forced treatment, although there were disagreements between medical professionals within some cases (such as the *E* case). The impact of compulsory treatment on the relationship between patients and medical professionals is also a relevant consideration. Clough contended that the outcome in each case that she analysed "was also the outcome which

the expert opinion tended to favour" (2016: 444). However, it has been argued that judges have exhibited greater willingness to question expert views in more recent cases (Cave & Tan 2025).

Although the views of family members, friends and medical professionals were considered within the cases, broader contextual factors, which are also relevant to the relational aspects of human selves, were often neglected or dismissed. Clough notes that, as judges cannot demand that particular services are provided, their analysis is necessarily constrained to a narrow focus on individuals "rather than broader institutional practices and behaviours" (2021: 101). In the *RD* case, Moor J alluded to a criticism of the historical treatment of the patient involved. Moor J noted that a consultant psychiatrist was critical that the patient "had been treated in the community for too long when in her 20s without admission to an" eating disorder unit (2021: paragraph 6). However, although Moor J mentioned this criticism, they did not delve into its merits. I argue that such broader contextual factors are pertinent considerations for judges adjudicating relevant cases.

Social relations

I contend that, in order to avoid reifying patients with AN as untreatable, broader social relations must be considered within relevant cases. There are aspects of the prevalence, diagnosis and treatment of the disease which should be addressed and which could prevent some patients reaching the stage of the AN patients in the aforementioned cases. The prevalence of eating disorders, among children and young people in England, has increased in recent years (NHS Digital 2023). The clandestine nature of such illnesses may mean that completely accurate data is elusive (Woolf 2012). There is a need for further research into eating disorders. The All-Party Parliamentary Group on Eating Disorders (APPGED) (2021) determined that just 1 per cent of mental health research funding went towards research on eating disorders, between 2015 and 2019, despite eating disorders accounting for around 9 per cent of UK mental health conditions. In addition, there have been no coordinated efforts at eating disorder prevention and early intervention (Hemmings & Ors 2023).

The lack of access to services for eating disorder patients may mean that "people may grow into illness, rather than out of it" (Downs 2024b). Those patients who are able to access services often face stigma from medical professionals (Johns & Ors 2019; Health and Social Care Committee 2022). The Health and Social Care Committee therefore concluded that there was a need for "further awareness and training among all healthcare

staff" (2022: 4). The Parliamentary and Health Service Ombudsman (2017) report into the death of a 19-year-old woman, Averil Hart, from AN, in 2012, reached similar conclusions. The report also criticized the lack of parity between adult eating disorder services and child and adolescent services and the lack of co-ordination between staff treating patients (ibid). In 2023, Rob Behrens (Parliamentary and Health Service Ombudsman) lamented that little progress had been made subsequently (Gregory 2023). The National Audit Office (2023) identified staff shortages as a major constraint in improving and expanding mental health services within England. More funding for the treatment of, and research into, AN and more training for healthcare workers could help to alleviate suffering.

If AN patients, who are the subjects of proceedings, are reified as untreatable, it may have a detrimental impact on the treatment of, and conceptions of, other AN patients. In this regard, campaigners have expressed concern about the rationing of care within England, with patients having care discontinued when their illness worsens or if they are deemed to be not improving quickly enough (Marsh 2023; Harris 2024). There was controversy, in 2022, when a leaked guidance document for the east of England suggested that LSED patients should be put on a palliative pathway "without the focus being on full recovery or weight gain" but attention paid instead to "physical health monitoring" and "pain and symptom management" (Dunn 2023; Harris 2024). According to responses to freedom of information requests by APPGED (2025), many individuals have been discharged with dangerously low body mass indexes on the basis that they did not want to get well. In a context where thinness is valorized culturally, those accessing or attempting to access services face stigma, there is a lack of awareness and training among healthcare professionals, there are insufficient resources and insufficient research into, and focus on the prevention of, eating disorders, regarding some AN patients as incurable is ethically problematic and may obscure various social aspects and failures pertaining to the condition. Consequently, judges should be more cautious and should thoroughly interrogate the treatment histories of patients before deeming treatment to be inappropriate or non-beneficial. In addition, through meticulous analysis, judges can highlight the broader policy and resource issues and their judgments could be a spur for needed reforms.

[E] FUTILITY

As per the second factor identified by Mostyn J in the *Beatrice* case, judges have supported the wishes of patients not to be subjected to continued forced treatment in many of the cases, on the basis that continued treatment is futile. In the *E* case, Jackson J stated that "I would not overrule her [the patient's] wishes if further treatment was futile, but it is not." (2012: paragraph 138) In contrast, in the *L* case, King J described force feeding under sedation as "futile, carrying with it a near certainty that it would cause her death in any event" (2012: paragraph 68). In the *RD* case, Moor J stated that compulsory treatment "will achieve nothing and be futile" (2021: paragraph 40). Similarly, in the *AB* case, Roberts J stated that "to embark on that course [forcible tube feeding or tube feeding under sedation] now is likely to be futile and may well precipitate her death in any event" (2020: paragraph 66).

The use of the concept of futility, to justify denying or withdrawing life-sustaining treatment, has been critiqued within previous academic literature (Auckland 2021). My above analysis indicates that describing the continued treatment of LSED patients as futile may obscure problematic aspects of social relations, such as shortcomings concerning the prevention and treatment of AN. A further issue concerns how futility is defined. Cynthia Geppert (2015) notes that there are three broad definitions of futility within medical literature: physiological (interventions which are considered inappropriate as they have 0 per cent chance of succeeding); quantitative (interventions which have not worked in a certain number of cases); and, qualitative (interventions which are not supported as the burdens outweigh the benefits or, given the patient's poor prognosis, cannot provide a minimum quality of life worth living). Geppert avers that none of these definitions has the "necessary grounding in medical science or ethical reasoning" (ibid: 42) to be applied to patients with LSEDs. Scott Crow (2023) contends that the most critical gap in using terms such as futility (and related terms) in relation to LSED patients is the current lack of ability to rigorously predict outcomes. There is also a concern that perceptions of futility may reflect the burnout of treatment teams rather than unlikelihood of success (Cave & Tan 2017).

Another issue is the diverse array of labels in use for LSEDs, such as severe and enduring AN (SE-AN), severe and enduring eating disorder (SEED) and terminal AN (Gaudiani & Ors 2022; Birch & Ors 2024; Elwyn & Ors 2024). The terms SE-AN (*RD* 2021: paragraph 6) and SEED (*AB* 2021: paragraph 1) have been used within relevant cases and the word "terminal" was used in King J's declaration in the *L* case. With regards to

SE-AN and SEED, Alykhan Asaria (2025) notes that enduringness and severity are not necessarily correlated. With regards to terminal AN, Anneli Jefferson (2024) contends that the proposed diagnosis problematically reifies AN as a metabolic condition.

The usefulness of the various labels used to describe LSEDs are called into question by one study which indicated that patients with LSEDs did just as well in enhanced cognitive behaviour therapy (CBT-E) as any other patient starting treatment (Raykos & Ors 2018). It has been suggested that more apt terminology than futility, in cases involving some LSED patients, may be that treatment is "potentially inappropriate" or "non-beneficial" (Geppert & Ors 2021). In assessing whether treatment is potentially inappropriate or non-beneficial, possible complications, such as refeeding syndrome (shifts in fluids and electrolytes which can be fatal) and the potential co-operation and resistance of patients, are relevant considerations, which were considered within some of the cases that I have analysed.

It has been argued that virtues, such as compassion, humility and prudence, may justify not continuing treatment in some cases (McKinney 2015; Westermaira & Ors 2021). Consequently, harm reduction and palliative care have been suggested as appropriate for some patients (Lopez & Ors 2010). Nevertheless, hope is also regarded as a virtue, and sufferers have indicated that hopeful messages are often unjustifiably absent from their interactions with healthcare professionals (Downs 2024b). A paradox of demedicalization has been identified whereby the likelihood of patients receiving robust medical care diminishes as their illnesses become more medically compromising and life-limiting (Downs & Adams 2025).

Another relevant consideration, in determining whether treatment is likely to be potentially inappropriate or non-beneficial, is the previous treatments that patients have undergone. Comprehensive details regarding the psychiatric treatments that the patients involved in the aforementioned cases underwent is not provided within all of the judgments. Such information is relevant to assessing whether treatment options have been exhausted. A related issue is that:

> people with longstanding AN may not actually be "treatment resistant," but rather the treatments delivered to them may not have been adequately tailored to meet their needs (Hay & Ors 2021).

The concept of SE-AN may "be the result of cross-feedback between misleading assumptions and the increasing iatrogenic effects of failed

treatments" (Gutiérrez & Carrera 2021: 2; Olmsted 2020). Similarly, James Downs and colleagues aver that:

> the poor prognosis seen in eating disorders is not a product of the inherent characteristics of the disorders—that eating disorders, and those who experience them, are untreatable (2023: 146).

Whether the treatments were adequately tailored to meet the needs of the patients within the aforementioned cases does not appear to have been sufficiently explored within relevant judgments and academic commentary.

The potential for newer treatments to help patients is also a relevant consideration. John Coggon (2014) notes that, in the *E* case, Jackson J opined that the patient did not have to receive every possible treatment to see if it succeeds (2012: paragraph 134). However, if treatments have not been tried, which could have been, this renders determinations of futility questionable. As Phillip Mehler and colleagues note, "treatments are constantly evolving, and no patients have yet failed all of the possible combinations of potentially successful treatments" (2021: xix). In the view of Glover (2024), "no stone is left unturned and no possible or future treatment is beyond consideration" in relevant cases. However, whether emerging treatments could have helped the patients in the aforementioned cases does not appear to have been sufficiently explored within all of the relevant judgments. Nonetheless, newer treatments were explored in some cases, such as the use of esketamine within the *CC* case. If emerging treatments are not sufficiently explored, patients and medicine may both be reified due to assumptions that the former cannot recover and that the latter is static. The APPGED has recommended that judges and lawyers receive training regarding eating disorders as they "are marking individuals as untreatable and allowing NHS trusts to withdraw care when the individual has not necessarily been offered a variety of treatment" (2025: 25).

[F] CAPACITY

As mentioned above, the MCA 2005 test for capacity contains diagnostic and functional elements, and AN patients have been deemed to lack capacity, within relevant case law, as their compulsions have been regarded as rendering them unable to weigh information as part of decision-making processes regarding medical treatment. Daniel Wang (2015) contends that the manner in which the MCA 2005 has been applied, in practice, in relation to AN patients, is incompatible with the Convention on the Rights of Persons with Disabilities 2007 (CRPD)

(specifically Article 12, equal recognition before the law), as AN patients have been deemed to lack capacity based on diagnosis only.[1] However, the judges within relevant cases have not ruled out that some AN patients may have capacity. In the aforementioned *Q* case, involving a patient with BN, Hayden J determined that the presumption of capacity had not been rebutted in relation to a treatment decision for *hypokalemia* (low levels of potassium) (2022: paragraph 55).

Jefferson (2024) contends that several factors (such as the fact that the fear of gaining weight restricts what seems possible to AN sufferers, whether decisions reflect a patient's values or compulsions and the potential for reifying AN as an entity) demonstrate that establishing decision-making capacity may be extremely difficult. Many scholars argue that some AN patients may be competent or rational to refuse continued treatment in particular cases, for example, where treatment has been unsuccessful for a long period (Draper 2000; Giordano 2005; Pugh 2020). Although such refusals may reflect such patient's wishes and feelings, describing such decisions as autonomous may obscure the affective, embodied and relational (in particular, broader social relations) aspects which have influenced their current circumstances.

Paul Skowron (2019) notes that the relationship between autonomy and capacity is represented in three co-existing and contradictory ways by judges within the jurisdiction of England and Wales: capacity being the gatekeeper of autonomy (the gatekeeper account, which informed the MCA 2005); capacity being necessary but not sufficient for autonomy (insufficiency account); and autonomy sometimes surviving the absence of capacity (survival account). Skowron (2019) notes that the decision in *E* exemplifies the gatekeeper account, as feeding the patient involved against her will was deemed to be justifiable, as she lacked capacity, despite the fact that it was deemed to be "a very severe interference with her private life and personal autonomy" (2012: paragraph 125). However, the judge's comments in their decisions in *X* (2014: paragraph 46), *Z* (2016: paragraph 19), *AB* (2020: paragraph 67), *BG* (2022: paragraph 38), *Patricia* (in Moor J's first judgment, 2023: paragraph 22) and *FF* (2025: paragraph 65) are indicative of the survival account. For example, Moor J stated in the *Patricia* case that, although the patient concerned did not have capacity, he was:

> still of the view that she should have her autonomy on the basis that it is not in her interests to force-feed her against her wishes,

[1] I confine my analysis of the CRPD to academic critiques of judicial consideration of capacity. I note that the CRPD could also potentially be drawn on to develop a broader rights-based argument about states not fulfilling their obligations in relation to resource allocation.

> as it would be futile and cause her nothing but distress and turmoil (2023: paragraph 22).

Several reform options to the functional test have been suggested. As capacity tests are arguably too focused on cognitive and rational functioning, thereby overlooking the emotional dysregulation analysed above, some scholars have recommended additions (such as determining whether the patient's values are pathological) within relevant tests (Tan & Ors 2006). However, as Alex James Miller Tate (2020) notes, it may be difficult to distinguish pathological from non-pathological values and it may be tautological to use diagnostic criteria in defining the latter. Miller Tate has queried whether scholars "are asking the concept of capacity to bear too much moral weight" due to "horror and dismay" regarding the decisions that AN patients may make (ibid: 27). Miller Tate (2020) states that a different justification for treating such patients against their will may be required. As mentioned above, individuals can be treated compulsorily for their mental disorder under the MHA 1983, section 63, even if they have capacity. The MHA 1983 is justified on the basis that it prevents people with mental disorders from doing something that they would not do if they were well (Wessely 2018). There is evidence of recovered AN patients retrospectively acknowledging the necessity of forced treatment, although future regret is understudied (Tiller & Ors 1993; Watson & Ors 2000; Pugh 2020).

Some scholars contend that a weak substantivist approach to autonomy, whereby an agent's self-regarding attitudes provide standards by which their treatment decisions can be assessed, is preferable to an inconsistently applied value neutral approach (Condo 2022; Freyenhagen & O'Shea 2013). Those advocating a weak substantivist approach share, with those who favour proceduralist approaches, a concern that discussing the human good in shared objective terms opens the door to the imposition of values on individuals by others (Haliburton 2015). However, without substantive ethical discussions, people have nothing to base their conceptions of the good on than their own beliefs and desires, which may be manipulated (ibid).

Although it has been argued that the functional test is manipulated to deem that some AN patients lack capacity, as Sam Boyle (2019) notes, it may indicate incapacity (without manipulation) in some cases. For example, if an AN patient espouses false beliefs about the quality of available food; is unable to apply information about nutrition to themselves; and/or, demonstrates discordance between their goals and decisions (ibid). In relation to the latter, many LSED patients state that they want to live, but their refusal of treatment contradicts this goal. This may be comprehended

by applying G E Moore's paradox, as the assertions of such patients, that they want to live but do not want treatment as they view themselves as fat, reflects a conflict between secondary-process-mediated-beliefs (the objective recognition of medical danger) and primary-process-mediated-phantasy (the internal seeming of being fat) (Moore 1993; Fileva & Brakel 2019). In contrast, Radden (2021) contends that such statements may exemplify a patient's subjective value ranking, with some goals (such as self-control and weightlessness) being prioritized over others. Jonathan Pugh (2020) also notes that one option (although not his preference) for rationalists, is to argue that it is illogical to prefer certain goods (such as low weight) over others (such as survival) and therefore that treatment refusals by AN patients could be described as irrational.

MacIntyre's (2016) neo-Aristotelian position is that rational agents have a higher order desire not to prefer the lesser to the greater good in particular situations. MacIntyre contended that the development of character involves learning to "distinguish those of our desires that are desires for genuine goods [those that will contribute to our flourishing] from those that are not" (2011: 11). The development of character, and ordering of desires, includes moral, psychological and affective aspects (Hernandez Gonzalez 2022). MacIntyre averred that "we become intelligible to others just insofar as" others "can identify and understand as possible goods the goods that furnish us with reasons for desiring as we do and acting as we do" (2016: 9). The desire of AN patients for low weight over flourishing will generally be unintelligible to others, who will endeavour to help such patients to desire in accordance with their flourishing (Kious 2015). Nevertheless, subject to the proviso of the insights derived from my above analysis of futility, the desire of AN patients for treatment to cease (whether or not they have capacity) may be intelligible where continued treatment may be properly regarded as potentially inappropriate or non-beneficial. In determining this, relevant considerations include attempted treatments and potential complications.

[G] CONCLUSION

Nedelsky contended that an optimal conception of human selves would integrate understandings of human beings as embodied, affective and relational. I drew on MacIntyre's philosophy to thoroughly assess the extent to which these aspects have been sufficiently captured within relevant laws (in particular, relevant case law), within the jurisdiction of England and Wales, and academic literature, pertaining to AN. I argued that relational factors have been important considerations in some cases to not continue to forcibly treat patients with LSEDs. However, I averred

that such decisions, and related academic commentary, problematically neglect the broader social relations relevant to the aetiology of eating disorders. I also contended that the embodied and affective aspects of human selves have been neglected in pertinent cases and associated academic commentary. I argued that neglecting such aspects of human selves may lead to unjustifiable decisions regarding futility, capacity and autonomy. I contended that patients may be reified by being regarded as untreatable, that medicine may be reified if newer treatments are overlooked and that AN itself may be reified if it is regarded as a purely metabolic condition.

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References

All-Party Parliamentary Group on Eating Disorders. *Breaking the Cycle: An Inquiry into Eating Disorder Research Funding in the UK*. Norwich: Beat, 2021.

All-Party Parliamentary Group on Eating Disorders. *The Right to Health: People with Eating Disorders Are Being Failed*. London: All-Party Parliamentary Group on Eating Disorders, 2025.

Aristotle. *The Nicomachean Ethics*. Oxford: Oxford University Press, 2009.

Asaria, Alykhan. "Improving Eating Disorder Care for Underserved Groups: A Lived Experience and Quality Improvement Perspective." *Journal of Eating Disorders* 13(11) (2025).

Auckland, Cressida. "A Façade of Futility". *Law Quarterly Review* 137 (2021): 451-476.

Birch, Edwin & Ors. "Harm Reduction in Severe and Long-Standing Anorexia Nervosa: Part of the Journey but not the Destination—A Narrative Review with Lived Experience." *Journal of Eating Disorders* 12 (2024).

Boyle, Sam. "How Should the Law Determine Capacity to Refuse Treatment for Anorexia?" *International Journal of Law and Psychiatry* 64 (2019): 250-259.

Bridgeman, Jo. "A Relational Responsibilities Framework for Children's Healthcare Law." In *A Jurisprudence of the Body*, edited by Chris Dietz & Ors, 255-280. Basingstoke: Palgrave, 2022.

Bühren, K & Ors. "Comorbid Psychiatric Disorders in Female Adolescents with First-Onset Anorexia Nervosa." *European Eating Disorders Review* 22 (2013): 39-44.

Cave, Emma & Jacinta Tan. "Severe and Enduring Anorexia Nervosa in the Court of Protection of England and Wales." *International Journal of Mental Health and Capacity Law* 23 (2017): 4-24.

Cave, Emma & Jacinta Tan. "Evolving Judicial Approaches to Longstanding Anorexia Nervosa." *Clinical Ethics* 20 (2025): 222-232.

Charland, Louis. "Ethical and Conceptual Issues in Eating Disorders." *Current Opinion in Psychiatry* 26 (2013): 562-565.

Clough, Beverley. "Commentary: Anorexia, Capacity, and Best Interests: Developments in the Court of Protection Since the Mental Capacity Act 2005." *Medical Law Review* 24 (2016): 434-445.

Clough, Beverley. *The Spaces of Mental Capacity Law: Moving Beyond Binaries*. Abingdon: Routledge, 2021.

Coggon, John. "Anorexia Nervosa, Best Interests, and the Patient's Human Right to 'a Wholesale Overwhelming of her Autonomy'." *Medical Law Review* 22 (2014): 119-130.

Condo, Jacopo. "Abandonment or Liberation? Anorexia, Refusal of Treatment and the Limits of Proceduralism." In *Critical Theory Today: On the Limits and Relevance of an Intellectual Tradition*, edited by Denis Bosseau & Tom Bunyard, 125-150. Cham: Palgrave, 2022.

Crow, Scott. "Terminal Anorexia Cannot Currently Be Identified." *International Journal of Eating Disorders* 56 (2023): 1329-1334.

Darmon, Muriel. *Becoming Anorexic: A Sociological Study*. Abingdon: Routledge, 2016.

Downs, James & Ors. "Untreatable or Unable to Treat? Creating More Effective and Accessible Treatment for Long-standing and Severe Eating Disorders." *The Lancet Psychiatry* 10 (2023): 146-154.

Downs, James. "Restoring and Re-storying the Possibility of Recovery". *The Lancet Psychiatry* 11 (2024a): 794-795.

Downs, James. "Care Pathways for Longstanding Eating Disorders Must Offer Paths to Recovery, Not Managed Decline." *BJPsych Bulletin* 48 (2024b): 177-181.

Downs, James & Adams, Marissa. "Toward Dignity-Centred Ethics in the Treatment of Longstanding and Severe Eating Disorders: A Lived Experience-Led Narrative Review." *Academia Mental Health and Well-Being* 2 (2025).

Draper, Heather. "Anorexia Nervosa and Respecting a Refusal of Life-Prolonging Therapy: A Limited Justification." *Bioethics* 14 (2000): 120-133

Dunn, Dorothy. "If I'd Been Given Palliative Care When I Had an Eating Disorder, I Would Not Be Here Today." *The Guardian*, 16 September 2023.

Elwyn, Rosiel & Ors. "Discordant Conceptualisations of Eating Disorder Recovery and their Influence on the Construct of Terminality." *Journal of Eating Disorders* 12 (2024).

Elzakkers, Isis & Ors. "Mental Capacity to Consent to Treatment and the Association with Outcome: A Longitudinal Study in Patients with Anorexia Nervosa." *BJPsych Open* 3 (2017): 147-153.

Evans, Amanda. "Anorexia Nervosa: Illusion in the Sense of Agency." *Mind and Language* 38 (2023): 480-494.

Fileva, Iskra & Linda Brakel. "Just Another Article on Moore's Paradox, But We Don't Believe That." *Synthese* 196 (2019): 5153-5167.

Freyenhagen, Fabian & Tom O'Shea. "Hidden Substance: Mental Disorder as a Challenge to Normatively Neutral Accounts of Autonomy." *International Journal of Law in Context* 9 (2013): 53-70.

Gaudiani, Jennifer & Ors. "Terminal Anorexia Nervosa: Three Cases and Proposed Clinical Characteristics." *Journal of Eating Disorders* 10 (2022).

Geppert, Cynthia. "Futility in Chronic Anorexia Nervosa: A Concept Whose Time Has Not Yet Come." *American Journal of Bioethics* 15 (2015): 34-43.

Geppert, Cynthia & Ors. "Futility." In *Tipping the Scales: Ethical and Legal Dilemmas in Managing Severe Eating Disorders*, edited by Patricia Westmoreland, 165-180. Washington DC: American Psychiatric Association Publishing, 2021.

Giordano, Simona. *Understanding Eating Disorders: Conceptual and Ethical Issues in the Treatment of Anorexia and Bulimia Nervosa*. Oxford: Oxford University Press, 2005.

Glover, Ty. "Expert Witness in Anorexia Cases." Open Justice Court of Protection Project, 2024.

Gregory, Andrew. "Eating Disorder Patients 'Repeatedly Failed', Says England Watchdog." *The Guardian*, 27 February 2023.

Guillame, S & Ors. "Impaired Decision-Making in Symptomatic Anorexia and Bulimia Nervosa Patients: A Meta-Analysis." *Psychological Medicine* 45 (2015): 3377-3391.

Gutiérrez, Emilio & Olaia Carrera. "Severe and Enduring Anorexia Nervosa: Enduring Wrong Assumptions?" *Frontiers in Psychiatry* 12 (2021).

Haliburton, Rachel. *Autonomy and the Situated Self: A Challenge to Bioethics*. Plymouth: Lexington, 2015.

Harris, John. "Your Illness Worsens – So Care Is Cut Off. This Is the Scandal Playing out in Eating Disorder Treatment." *The Guardian*, 25 February 2024.

Hay, Philippa & Ors. "Editorial: Toward an Improved Understanding of Severe and Enduring Anorexia Nervosa." *Frontiers in Psychiatry* 12 (2021).

Health and Social Care Committee. *The Impact of Body Image on Mental and Physical Health. Second Report of Session 2022-2023*. London: House of Commons, 2022.

Hemmings, Amelia & Ors. "EDIFY (Eating Disorders: Delineating Illness and Recovery Trajectories to Inform Personalised Prevention and Early Intervention in Young People): Project Outline." *BJPsych Bulletin* 47 (2023): 328-336.

Hernandez Gonzalez, Sandra. "MacIntyre, El Deseo Y Las Virtudes [MacIntyre, Desire and Virtues]" in *Cuarenta años de after Virtue de Alasdair MacIntyre: Relecturas Iberoamericanas* [Forty Years of Alasdair MacIntyre's After Virtue: Ibero-American Rereadings], edited

by Francisco Javier de la Torre, Maximiliano Loria & Lucio Nontol, 47-58. Madrid: Dykinson, SL, 2022.

Higgins, Ashley. "The Neurobiology of Anorexia Nervosa." In *Anorexia and Bulimia Nervosa*, edited by Hubertus Himmerich & Ignacio Jauregui Lobera, 51-68. London: IntechOpen, 2018.

Hill, Laura & Ors. *Temperament Based Therapy with Support for Anorexia Nervosa: A Novel Treatment*. Cambridge: Cambridge University Press, 2022.

Hope, Tony & Ors. "Agency, Ambivalence and Authenticity: The Many Ways in which Anorexia Nervosa Can Affect Autonomy." *International Journal of Law in Context* 9 (2013): 20-36.

Jefferson, Anneli. "'Terminal Anorexia', Treatment Refusal and Decision-Making Capacity." *Cambridge Quarterly of Healthcare Ethics* 33 (2024): 558-569.

Johns, Gemma & Ors. "Current Eating Disorder Healthcare Services – The Perspectives and Experiences of Individuals with Eating Disorders, their Families and Health Professionals: Systematic Review and Thematic Synthesis." *British Journal of Psychiatry Open* 5 (2019).

Keys, Ancel & Ors. *The Biology of Human Starvation, Volume 1.* Minneapolis MN: University of Minnesota Press, 1950a.

Keys, Ancel & Ors. *The Biology of Human Starvation, Volume 2*. Minneapolis MN: University of Minnesota Press, 1950b.

Khalsa, Sahib & Ors. "What Happens after Treatment? A Systematic Review of Relapse, Remission and Recovery in Anorexia Nervosa." *Journal of Eating Disorders* 5 (2017): 20-32.

Kious, Brent. "Autonomy, Judgment, and Theories of the Good." *Philosophy, Psychiatry and Psychology* 22 (2015): 21-24.

Law Commission. *Mental Incapacity*. London: HMSO, 1995.

Lopez, Amy & Ors. "Medical Futility and Psychiatry: Palliative Care and Hospice Care as a Last Resort in the Treatment of Refractory Anorexia Nervosa". *International Journal of Eating Disorders* 43 (2010): 372-377.

MacIntyre, Alasdair. "How Virtues Become Vices: Values, Medicine and Social Context." *Encounter* 45 (1975): 11-17.

MacIntyre, Alasdair. "What Has Ethics to Learn from Medical Ethics?" *Philosophic Exchange* 9 (1978): 37-47.

MacIntyre, Alasdair. “Medicine Aimed at the Care of Persons Rather Than What?” In *Changing Values in Medicine*, edited by Eric Cassell & Mark Siegler, 83-96. Frederick, MA: University Publications of America, 1979.

MacIntyre, Alasdair. *Dependent Rational Animals: Why Human Beings Need the Virtues*. Chicago: Open Court, 1999.

MacIntyre, Alasdair. *After Virtue: A Study in Moral Theory*, 3rd edn. Notre Dame IN: University of Notre Dame Press, 2007.

MacIntyre, Alasdair. *God, Philosophy, Universities: A Selective History of the Catholic Philosophical Tradition*. Plymouth: Rowman & Littlefield, 2009.

MacIntyre, Alasdair. “How Aristotelianism Can Become Revolutionary: Ethics, Resistance, and Utopia.” In *Virtue and Politics: Alasdair MacIntyre’s Revolutionary Aristotelianism*, edited by Paul Blackledge & Kelvin Knight, 11-19. Notre Dame IN: University of Notre Dame Press, 2011.

MacIntyre, Alasdair. *Ethics in the Conflicts of Modernity*. Cambridge: Cambridge University Press, 2016.

Madden, Sloane. “Biopsychiatric Theories of Eating Disorders.” In *The Wiley Handbook of Eating Disorders: Volume 1*, edited by Linda Smolak & Michael Levine, 211-221. Chichester: John Wiley & Sons, 2015.

Marsh, Sarah. ‘UK Eating Disorder Patients Face Rationing of Care, Psychiatrists Say.’ *The Guardian*, 10 March 2023.

McKinley, J C & S R Hathaway. “The Minnesota Multiphasic Personality Inventory V: Hysteria, Hypomania and Psychopathic Deviate.” *Journal of Applied Psychology* 28 (1944): 153-174.

McKinney, Cushla. “Is Resistance (N)ever Futile? A Response to ‘Futility in Chronic Anorexia Nervosa: A Concept Whose Time Has Not Yet Come’ by Cynthia Geppert’.” *American Journal of Bioethics* 15 (2015): 53-54.

Mehler, Philip & Ors. “Introduction.” In *Tipping the Scales: Ethical and Legal Dilemmas in Managing Severe Eating Disorders*, edited by Patricia Westmoreland, xv-xxii. Washington DC: American Psychiatric Association Publishing, 2021.

Miller Tate, Alex. “Narrative Coherence and Mental Capacity in Anorexia Nervosa.” *AJOB Neuroscience* 11 (2020): 26-28.

National Audit Office (NAO). *Progress in Improving Mental Health Services in England*. London: NAO, 2023.

Nedelsky, Jennifer. *Law's Relations: A Relational Theory of Self, Autonomy and Law*. Oxford: Oxford University Press, 2012.

NHS Digital. "Mental Health of Children and Young People in England, 2023-Wave 4 Follow up to the 2017 Survey." NHS England, 21 November 2023.

O'Hara, Caitlin & Ors. "A Reward-Centred Model of Anorexia Nervosa: A Focussed Narrative Review of the Neurological and Psychophysiological Literature." *Neuroscience and Biobehavioural Reviews* 52 (2015): 131-152.

Oldershaw, Anna & Ors. "Anorexia Nervosa and a Lost Emotional Self: A Psychological Formulation of the Development, Maintenance, and Treatment of Anorexia Nervosa." *Frontiers in Psychology* 10 (2019): 1-22.

Olmsted, Marion. "Severe and Enduring Anorexia Nervosa: Fertile Ground for Iatrogenic Development." *The International Journal of Eating Disorders* 53 (2020): 1318-1319.

O'Shea, Tom. Green Paper Technical Report: Critics of Autonomy – Essex Autonomy Project (2012).

Parliamentary and Health Service Ombudsman. *Ignoring the Alarms: How NHS Eating Disorder Services Are Failing Patients*. London: House of Commons, 2017.

Pugh, Jonathan. *Autonomy, Rationality and Contemporary Bioethics*. Oxford: Oxford University Press, 2020.

Radden, Jennifer. "Food Refusal, Anorexia and Soft Paternalism: What's at Stake?" *Philosophy, Psychiatry and Psychology* 28 (2021): 141-150.

Ramis Barcelo, Rafael. *Derecho natural, historia y razones para actuar: la contribución de Alasdair MacIntyre al pensamiento jurídico* [Natural Law, History, and Reasons for Action: Alasdair MacIntyre's Contribution to Legal Thought]. Madrid: Universidad Carlos III de Madrid, 2012.

Raykos, Bronwyn & Ors. "Severe and Enduring Anorexia Nervosa? Illness Severity and Duration Are Unrelated to Outcomes from Cognitive Behaviour Therapy." *Journal of Consulting and Clinical Psychology* 86 (2018): 702-709.

Rigaud, Daniel, & Ors. "Prognosis in 41 Severely Malnourished Anorexia Nervosa Patients." *Clinical Nutrition* 31 (2012): 693-698.

Sarro, S. "Those Courageous Boys: 73 Years after the Minnesota Starvation Experiment – A Psychiatrist's View." *Neurosciences and History* 6 (2018): 28-37.

Skowron, Paul. "The Relationship between Autonomy and Adult Mental Capacity in the Law of England and Wales." *Medical Law Review* 27 (2019): 32-58.

Smolak, Linda & Michael Levine. "Toward an Integrated Biopsychosocial Model of Eating Disorders." In *The Wiley Handbook of Eating Disorders: Volume 2*, edited by Linda Smolak & Michael Levine, 929-941. Chichester: John Wiley & Sons, 2015.

Snead, O Carter. *What It Means to Be Human: The Case for the Body in Public Bioethics*. Cambridge MA: Harvard University Press, 2020.

Stickler, Rebecca. "Mental Capacity Law in England and Wales: A Value-Laden Jurisdiction." In *Capacity, Participation and Values in Comparative Legal Perspective*, edited by Camillia Kong & Ors, 9-26. Cambridge: Cambridge University Press, 2023.

Tan, Jacinta & Ors "Competence to Make Treatment Decisions in Anorexia Nervosa: Thinking Processes and Values." *Philosophy, Psychiatry and Psychology* 13 (2006): 267-282.

Tarasenko-Struc, Aleksy. "The Thin End of the Wedge?: The Moral Puzzle of Anorexia Nervosa." *Journal of Medicine and Philosophy* 51 (2026): 103-116.

Tiller, Jane & Ors. "Compulsory Treatment for Anorexia Nervosa: Compassion or Coercion?" *British Journal of Psychiatry* 162 (1993): 679-680.

Touyz, Stephen & Ors. "Clinical, Legal and Ethical Implications of Coercion and Compulsory Treatment in Eating Disorders: Do Rapid Review Findings Identify Clear Answers or More Muddy Waters?" *Journal of Eating Disorders* 12 (2024): 163.

Van Elburg, Annemarie & Ors. "Decision-Making and Emotion Dysregulation in Severe Enduring Anorexia Nervosa." *Frontiers in Psychiatry* 12 (2021).

Waller, Glenn & Ors. *Cognitive Behavioural Therapy for Eating Disorders: A Comprehensive Treatment Guide*. Cambridge: Cambridge University Press, 2007.

Walsh, B Timothy. "The Enigmatic Persistence of Anorexia Nervosa." *American Journal of Psychiatry* 170 (2013): 477-484.

Wang, Daniel. "Mental Capacity Act, Anorexia Nervosa and the Choice Between Life-Prolonging Treatment and Palliative Care: A NHS Foundation Trust v Ms X." *Modern Law Review* 78 (2015): 871-882.

Watson, Tureka, & Ors. "Involuntary Treatment of Eating Disorders." *American Journal of Psychiatry* 157 (2000): 1806-1810.

Wessely, Simon. *Modernising the Mental Health Act: Increasing Choice, Reducing Compulsion: Final Report of the Independent Review of the Mental Health Act 1983*. London: Crown Copyright, 2018.

Westermair, Anna, & Ors. "Palliative Psychiatry for Severe and Enduring Anorexia Nervosa Includes but Goes beyond Harm Reduction." *American Journal of Bioethics* 21 (2021): 60-62.

Woolf, Emma. *An Apple a Day: A Memoir of Love and Recovery from Anorexia*. Berkeley CA: Counterpoint, 2012.

World Health Organization (WHO). *The ICD-10 Classification of Mental and Behavioural Disorders: Clinical Descriptions and Diagnostic Guidelines*. Geneva: WHO, 1992.

World Health Organization (WHO). *Clinical Descriptions and Diagnostic Requirements for ICD-11 Mental, Behavioural and Neurodevelopmental Disorders*. Geneva: WHO, 2024.

Conventions

Convention on the Rights of Persons with Disabilities (CRPD) (signed 30 March 2007; entered into force 3 May 2008) UNTS 2515

European Convention on Human Rights (signed 4 November 1950; entered into force 3 September 1953) 213 UNTS 222

Cases

A Local Authority v E [2012] EWHC 1639 (COP)

A Local Authority v JB [2021] UKSC 52

A Mental Health NHS Trust v BG [2022] EWCOP 26

A Mental Health Trust v ER [2021] EWCOP 32

A Midlands NHS Trust v RD (via her Litigation Friend, the Official Solicitor), SD, LD, A Midlands Clinical Commissioning Group [2021] EWCOP 35

A NHS Foundation Trust v X [2014] EWCOP 35

Barnet, Enfield and Haringey Mental Health CC & Ors [2024] EWCOP 65

Cheshire and Wirral v Z [2016] EWCOP 56

Gloucestershire Health & Care NHS Foundation Trust v FD & Ors [2023] EWHC 2634 (Fam)

In the Matter of Patricia [2023] EWCOP 42 and EWCOP 70

Lancashire and South Cumbria NHS Foundation Trust v Q [2022] EWCOP 6

Leeds and York Partnership NHS Foundation Trust v FF & Anor [2025] EWCOP 26 (T3)

London Borough of Southwark v NP & Ors [2019] EWCOP 48

NHS Trust v L [2012] EWHC 2741 (COP)

North East London NHS Foundation Trust v Beatrice [2023] EWCOP 17/ (No 2) EWCOP 60

Northamptonshire Healthcare NHS FT v AB [2020] EWCOP 40

Patricia's Father and Ors v Patricia and Ors [2025] EWCOP 30 (T3)

Pennine Care NHS Foundation Trust v Mrs T [2022] EWHC 515 (Fam)

Re W (Medical Treatment: Anorexia) [2016] EWCOP 13

South West Hertfordshire HA v KB [1994] 2 FCR 1051 (QBD)

St George's University Hospitals Foundation Trust & Anor v LV (Rev1) [2025] EWCOP 9 (T3)